

LEGISLATIVE COMMITTEE MINUTES

SB366

Bill as Introduced

SB 366-FN - AS INTRODUCED

2022 SESSION

22-3066

11/10

SENATE BILL **366-FN**

AN ACT - requiring an audit of ballots cast in the 2022 primary and general election.

SPONSORS: Sen. Gray, Dist 6; Sen. Soucy, Dist 18; Sen. Birdsell, Dist 19; Rep. Barody, Hills.
43

COMMITTEE: Election Law and Municipal Affairs

ANALYSIS

This bill requires an audit of ballots cast in the 2022 state primary and general elections.

Explanation: Matter added to current law appears in **bold italics**.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT requiring an audit of ballots cast in the 2022 primary and general election.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Audit Authorized. The secretary of state is hereby authorized to conduct an audit of the 2022
2 state primary and general elections.

3 2 Equipment and Technical Assistance. The secretary of state shall procure the equipment and
4 arrange for any required technical assistance to support the audit process. The equipment selected
5 shall be capable of:

6 I. Reading AccuVote ballots.

7 II. Scanning approximately 2,000 ballots per hour.

8 III. Capturing an image of both sides of the ballot.

9 IV. Recording the voters' choices.

10 V. Assigning a unique identifier to each record.

11 VI. Displaying the ballot image and voter choice for randomly selected ballots by the unique
12 identifier.

13 3 Preliminary Audit; State Primary Election. The secretary of state shall conduct an audit of at
14 least 2 AccuVote devices used in the 2022 state primary election. The devices need not be selected at
15 random. The intent of this audit is to identify problems with process to be used in the state general
16 election audit.

17 4 State General Election Audit; 2022.

18 I. The secretary of state shall randomly select one to 3 percent of AccuVote devices, but not
19 less than 4 such devices, to be used at the 2022 state general election to be audited. The secretary of
20 state may divide devices into groups for the selection based on criteria such as the estimated number
21 of election day ballots to be processed. The selection of devices to be audited shall be non-public and
22 made at least 2 weeks prior to the general election, after the AccuVote memory cards have been
23 programed.

24 II. The secretary of state shall not announce which devices have been selected to be audited
25 until at least 12:00 p.m. on election day, and if a device is selected in a community that uses multiple
26 devices the exact device shall not be identified until after the polls close.

27 III. The audit team shall consist of at least 2 individuals appointed by the secretary of state.
28 One such individual shall have been trained by the secretary of state in the audit process and the
29 use of audit equipment. The other individual, if not trained by the secretary of state in the audit
30 process and the use of audit equipment, shall be an elected election official. The audit team shall
31 scan all of the ballots which were cast and processed by the selected AccuVote machines.

SB 366-FN - AS INTRODUCED

- Page 2 -

1 IV. The audit shall be open to the public but no one except audit team members shall be
2 allowed to touch any ballot or any of the audit equipment.

3 V. Results from the scanning of the ballots shall be announced by the audit team at the
4 conclusion of the device audit.

5 VI. A random sample of not less than 5 percent of the ballots scanned shall be selected and
6 the images of the ballots selected shall be compared with the voters' choices recorded for the ballot.
7 Any differences identified during the comparison shall be documented.

8 VII. The secretary of state shall make the results of the audits available prior to 12:00 p.m.
9 on the Friday after the election. The secretary shall also report the results to the ballot law
10 commission, and the chairs of the house of representatives and senate standing committees with
11 jurisdiction over election law.

12 5 Effective Date. This act shall take effect 60 days after its passage.

**SB 366-FN- FISCAL NOTE
 AS INTRODUCED**

AN ACT requiring an audit of ballots cast in the 2022 primary and general election.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	\$50,000 to \$100,000	\$0	\$0
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This bill authorizes the Secretary of State to conduct an audit of ballots cast in the State's 2022 primary and general elections by procuring equipment to scan and record ballots. The Department of State indicates the fiscal impact of this bill would be a one time cost to State General Fund expenditures in the amount of \$50,000 to \$100,000 in FY 2023 to purchase and program a new high speed scanner.

AGENCIES CONTACTED:

Department of State

SB 366-FN - AS AMENDED BY THE SENATE

02/16/2022 0563s

2022 SESSION

22-3066

11/10

SENATE BILL **366-FN**

AN ACT requiring an audit of ballots cast in the 2022 primary and general election.

SPONSORS: Sen. Gray, Dist 6; Sen. Soucy, Dist 18; Sen. Birdsell, Dist 19; Rep. Baroody, Hills.
43

COMMITTEE: Election Law and Municipal Affairs

AMENDED ANALYSIS

This bill requires an audit of ballots cast in the 2022 state primary and general elections, provided that the secretary of state may forego the general election audit.

Explanation: Matter added to current law appears in *bold italics*.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

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1 1 Audit Authorized. The secretary of state is hereby authorized to conduct an audit of the 2022
2 state primary and general elections.

3 2 Equipment and Technical Assistance. The secretary of state shall procure the equipment and
4 arrange for any required technical assistance to support the audit process. The equipment selected
5 shall be capable of:

6 I. Reading AccuVote ballots.

7 II. Scanning approximately 2,000 ballots per hour.

8 III. Capturing an image of both sides of the ballot.

9 IV. Recording the voters' choices.

10 V. Assigning a unique identifier to each record.

11 VI. Displaying the ballot image and voter choice for randomly selected ballots by the unique
12 identifier.

13 3 Preliminary Audit; State Primary Election. The secretary of state shall conduct an audit of at
14 least 2 AccuVote devices used in the 2022 state primary election. The devices need not be selected at
15 random. The intent of this audit is to identify problems with process to be used in the state general
16 election audit. If the secretary of state is unable to resolve problems detected during the audit of the
17 primary election, he or she may elect to forego the general election audit. If the secretary of state
18 decides to forego the general election audit, he or she shall communicate his or her decision to the
19 senate president, the speaker of the house of representatives, the chairperson of the senate election
20 law and municipal affairs committee, and the chairperson of the house election law committee
21 within 10 days from the date of the primary election.

22 4 State General Election Audit; 2022.

23 I. The secretary of state shall randomly select one to 3 percent of AccuVote devices, but not
24 less than 4 such devices, to be used at the 2022 state general election to be audited. The secretary of
25 state may divide devices into groups for the selection based on criteria such as the estimated number
26 of election day ballots to be processed. The selection of devices to be audited shall be non-public and
27 made at least 2 weeks prior to the general election, after the AccuVote memory cards have been
28 programed.

29 II. The secretary of state shall not announce which devices have been selected to be audited
30 until at least 12:00 p.m. on election day, and if a device is selected in a community that uses multiple
31 devices the exact device shall not be identified until after the polls close.

SB 366-FN - AS AMENDED BY THE SENATE

- Page 2 -

1 III. The audit team shall consist of at least 2 individuals appointed by the secretary of state.
2 One such individual shall have been trained by the secretary of state in the audit process and the
3 use of audit equipment. The other individual, if not trained by the secretary of state in the audit
4 process and the use of audit equipment, shall be an elected election official. The audit team shall
5 scan all of the ballots which were cast and processed by the selected AccuVote machines.

6 IV. The audit shall be open to the public but no one except audit team members shall be
7 allowed to touch any ballot or any of the audit equipment.

8 V. Results from the scanning of the ballots shall be announced by the audit team at the
9 conclusion of the device audit.

10 VI. A random sample of not less than 5 percent of the ballots scanned shall be selected and
11 the images of the ballots selected shall be compared with the voters' choices recorded for the ballot.
12 Any differences identified during the comparison shall be documented.

13 VII. The secretary of state shall make the results of the audits available prior to 12:00 p.m.
14 on the Friday after the election. The secretary shall also report the results to the ballot law
15 commission, and the chairs of the house of representatives and senate standing committees with
16 jurisdiction over election law.

17 5 Effective Date. This act shall take effect 60 days after its passage.

SB 366-FN- FISCAL NOTE
 AS AMENDED BY THE SENATE (AMENDMENT #2022-0563s)

AN ACT requiring an audit of ballots cast in the 2022 primary and general election.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	\$50,000 to \$100,000	\$0	\$0
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This bill authorizes the Secretary of State to conduct an audit of ballots cast in the State's 2022 primary and general elections by procuring equipment to scan and record ballots. If the Secretary of State is unable to resolve the audit of the primary election, they may forgo the general election audit.

The Department of State indicates the fiscal impact of this bill would be a one time cost to State General Fund expenditures in the amount of \$50,000 to \$100,000 in FY 2023 to purchase and program a new high speed scanner.

AGENCIES CONTACTED:

Department of State

SB 366-FN - AS AMENDED BY THE SENATE

02/16/2022 0563s

2022 SESSION

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SENATE BILL **366-FN**

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SPONSORS: Sen. Gray, Dist 6; Sen. Soucy, Dist 18; Sen. Birdsell, Dist 19; Rep. Baroody, Hills.
43

COMMITTEE: Election Law and Municipal Affairs *OTPA S-O CONSENT*

AMENDED ANALYSIS

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5 shall be capable of:

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7 II. Scanning approximately 2,000 ballots per hour.

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13 3 Preliminary Audit; State Primary Election. The secretary of state shall conduct an audit of at
14 least 2 AccuVote devices used in the 2022 state primary election. The devices need not be selected at
15 random. The intent of this audit is to identify problems with process to be used in the state general
16 election audit. If the secretary of state is unable to resolve problems detected during the audit of the
17 primary election, he or she may elect to forego the general election audit. If the secretary of state
18 decides to forego the general election audit, he or she shall communicate his or her decision to the
19 senate president, the speaker of the house of representatives, the chairperson of the senate election
20 law and municipal affairs committee, and the chairperson of the house election law committee
21 within 10 days from the date of the primary election.

22 4 State General Election Audit; 2022.

23 I. The secretary of state shall randomly select one to 3 percent of AccuVote devices, but not
24 less than 4 such devices, to be used at the 2022 state general election to be audited. The secretary of
25 state may divide devices into groups for the selection based on criteria such as the estimated number
26 of election day ballots to be processed. The selection of devices to be audited shall be non-public and
27 made at least 2 weeks prior to the general election, after the AccuVote memory cards have been
28 programed.

29 II. The secretary of state shall not announce which devices have been selected to be audited
30 until at least 12:00 p.m. on election day, and if a device is selected in a community that uses multiple
31 devices the exact device shall not be identified until after the polls close.

SB 366-FN - AS AMENDED BY THE SENATE

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1 III. The audit team shall consist of at least 2 individuals appointed by the secretary of state.
2 One such individual shall have been trained by the secretary of state in the audit process and the
3 use of audit equipment. The other individual, if not trained by the secretary of state in the audit
4 process and the use of audit equipment, shall be an elected election official. The audit team shall
5 scan all of the ballots which were cast and processed by the selected AccuVote machines.

6 IV. The audit shall be open to the public but no one except audit team members shall be
7 allowed to touch any ballot or any of the audit equipment.

8 V. Results from the scanning of the ballots shall be announced by the audit team at the
9 conclusion of the device audit.

10 VI. A random sample of not less than 5 percent of the ballots scanned shall be selected and
11 the images of the ballots selected shall be compared with the voters' choices recorded for the ballot.
12 Any differences identified during the comparison shall be documented.

13 VII. The secretary of state shall make the results of the audits available prior to 12:00 p.m.
14 on the Friday after the election. The secretary shall also report the results to the ballot law
15 commission, and the chairs of the house of representatives and senate standing committees with
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17 5 Effective Date. This act shall take effect 60 days after its passage.

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AGENCIES CONTACTED:

Department of State

SB 366-FN - AS AMENDED BY THE HOUSE

02/16/2022 0563s
21Apr2022... 1408h

2022 SESSION

22-3066
11/10

SENATE BILL **366-FN**

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1 1 Audit Authorized. The secretary of state is hereby authorized to conduct an audit of the
2 AccuVote electronic ballot counting devices used in the 2022 state primary and general elections.

3 2 Equipment and Technical Assistance. The secretary of state shall procure the equipment and
4 arrange for any required technical assistance to support the audit process. The equipment selected
5 shall be capable of:

6 I. Reading AccuVote ballots.

7 II. Scanning approximately 2,000 ballots per hour.

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9 IV. Recording the voters' choices.

10 V. Assigning a unique identifier to each record.

11 VI. Displaying the ballot image and voter choice for randomly selected ballots by the unique
12 identifier.

13 3 Preliminary Audit; State Primary Election. The secretary of state shall conduct an audit of all
14 AccuVote devices used in at least 2 voting districts in the 2022 state primary election. The devices
15 need not be selected at random. The intent of this audit is to identify problems with process to be
16 used in the state general election audit. If the secretary of state is unable to resolve problems
17 detected during the audit of the primary election, he or she may elect to forego the general election
18 audit. If the secretary of state decides to forego the general election audit, he or she shall
19 communicate his or her decision to the senate president, the speaker of the house of representatives,
20 the chairperson of the senate election law and municipal affairs committee, and the chairperson of
21 the house election law committee within 10 days from the date of the primary election.

22 4 State General Election Audit; 2022.

23 I. The secretary of state shall randomly select not less than 4 voting districts that used
24 AccuVote devices at the 2022 state general election to be audited. The secretary of state may divide
25 districts into groups for the selection based on criteria such as the estimated number of election day
26 ballots to be processed. The selection of districts to be audited shall be non-public and made at least
27 2 weeks prior to the general election, after the AccuVote memory cards have been programed.

28 II. The secretary of state shall not announce which districts have been selected to be audited
29 until at least 12:00 p.m. on election day.

1 III. The audit team shall consist of at least 2 individuals appointed by the secretary of state.
2 One such individual shall have been trained by the secretary of state in the audit process and the
3 use of audit equipment. The other individual, if not trained by the secretary of state in the audit
4 process and the use of audit equipment, shall be an elected election official. The audit team shall
5 scan all of the ballots which were cast and processed by the AccuVote machines in the selected
6 districts.

7 IV. The audit shall be open to the public but no one except audit team members shall be
8 allowed to touch any ballot or any of the audit equipment.

9 V. Results from the scanning of the ballots shall be announced by the audit team at the
10 conclusion of the district audit.

11 VI. A random sample of not less than 5 percent of the ballots scanned shall be selected and
12 the images of the ballots selected shall be compared with the voters' choices recorded for the ballot.
13 Any differences identified during the comparison shall be documented.

14 VII. The secretary of state shall make the results of the audits available prior to 12:00 p.m.
15 on the Friday after the election. The secretary shall also report the results to the ballot law
16 commission, and the chairs of the house of representatives and senate standing committees with
17 jurisdiction over election law.

18 5 Effective Date. This act shall take effect 60 days after its passage.

SB 366-FN- FISCAL NOTE
 AS AMENDED BY THE HOUSE (AMENDMENT #2022-1408h)

AN ACT requiring an audit of ballots cast in the 2022 primary and general election.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
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Revenue	\$0	\$0	\$0	\$0
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METHODOLOGY:

This bill authorizes the Secretary of State to conduct an audit of ballots cast in the State's 2022 primary and general elections by procuring equipment to scan and record ballots. If the Secretary of State is unable to resolve the audit of the primary election, they may forgo the general election audit.

The Department of State indicates the fiscal impact of this bill would be a one time cost to State General Fund expenditures in the amount of \$50,000 to \$100,000 in FY 2023 to purchase and program a new high speed scanner.

AGENCIES CONTACTED:

Department of State

CHAPTER 284
SB 366-FN - FINAL VERSION

02/16/2022 0563s
21Apr2022... 1408h
05/26/2022 2020CofC

2022 SESSION

22-3066
11/10

SENATE BILL **366-FN**

AN ACT requiring an audit of ballots cast in the 2022 primary and general election.

SPONSORS: Sen. Gray, Dist 6; Sen. Soucy, Dist 18; Sen. Birdsell, Dist 19; Rep. Barody, Hills.
43

COMMITTEE: Election Law and Municipal Affairs

AMENDED ANALYSIS

This bill requires an audit of ballots cast in the 2022 state primary and general elections, provided that the secretary of state may forego the general election audit.

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CHAPTER 284
SB 366-FN - FINAL VERSION

02/16/2022 0563s
21Apr2022... 1408h
05/26/2022 2020CofC

22-3066
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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT requiring an audit of ballots cast in the 2022 primary and general election.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 284:1 Audit Authorized. The secretary of state is hereby authorized to conduct an audit of the
2 AccuVote electronic ballot counting devices used in the 2022 state primary and general elections.

3 284:2 Equipment and Technical Assistance. The secretary of state shall procure the equipment
4 and arrange for any required technical assistance to support the audit process. The equipment
5 selected shall be capable of:

6 I. Reading AccuVote ballots.

7 II. Scanning approximately 2,000 ballots per hour.

8 III. Capturing an image of both sides of the ballot.

9 IV. Recording the voters' choices.

10 V. Assigning a unique identifier to each record.

11 VI. Displaying the ballot image and voter choice for randomly selected ballots by the unique
12 identifier.

13 284:3 Preliminary Audit; State Primary Election. The secretary of state shall conduct an audit
14 of all AccuVote devices used in at least 2 towns or city wards in the 2022 state primary election. The
15 devices need not be selected at random. The intent of this audit is to identify problems with process
16 to be used in the state general election audit. If the secretary of state is unable to resolve problems
17 detected during the audit of the primary election, he or she may elect to forego the general election
18 audit. If the secretary of state decides to forego the general election audit, he or she shall
19 communicate his or her decision to the senate president, the speaker of the house of representatives,
20 the chairperson of the senate election law and municipal affairs committee, and the chairperson of
21 the house election law committee within 10 days from the date of the primary election.

22 284:4 State General Election Audit; 2022.

23 I. The secretary of state shall randomly select not less than 4 towns or city wards that used
24 AccuVote devices at the 2022 state general election to be audited. The secretary of state may divide
25 towns or city wards into groups for the selection based on criteria such as the estimated number of
26 election day ballots to be processed. The selection of towns or city wards to be audited shall be non-
27 public and made at least 2 weeks prior to the general election, after the AccuVote memory cards
28 have been programed.

CHAPTER 284
SB 366-FN - FINAL VERSION
- Page 2 -

1 II. The secretary of state shall not announce which towns or city wards have been selected to
2 be audited until at least 12:00 p.m. on election day.

3 III. The audit team shall consist of at least 2 individuals appointed by the secretary of state.
4 One such individual shall have been trained by the secretary of state in the audit process and the
5 use of audit equipment. The other individual, if not trained by the secretary of state in the audit
6 process and the use of audit equipment, shall be an elected election official. The audit team shall
7 scan all of the ballots which were cast and processed by the AccuVote machines in the selected towns
8 or city wards. The secretary of state may enlist the support of the technical expert as an audit team
9 member to assist with the technology being used.

10 IV. The audit shall be open to the public but no one except audit team members shall be
11 allowed to touch any ballot or any of the audit equipment.

12 V. Results from the scanning of the ballots shall be announced by the audit team at the
13 conclusion of the town or city ward audit.

14 VI. A random sample of not less than 5 percent of the ballots scanned shall be selected and
15 the images of the ballots selected shall be compared with the voters' choices recorded for the ballot.
16 Any differences identified during the comparison shall be documented.

17 VII. The secretary of state shall make the results of the audits available prior to 12:00 p.m.
18 on the Friday after the election. The secretary shall also report the results to the ballot law
19 commission, and the chairs of the house of representatives and senate standing committees with
20 jurisdiction over election law.

21 284:5 Effective Date. This act shall take effect upon its passage.

Approved: July 01, 2022
Effective Date: July 01, 2022

Amendments

Sen. Soucy, Dist 18
January 27, 2022
2022-0348s
10/05

Amendment to SB 366-FN

1 Amend the bill by replacing section 3 with the following:

2

3 3 Preliminary Audit; State Primary Election. The secretary of state shall conduct an audit of at
4 least 2 AccuVote devices used in the 2022 state primary election. The devices need not be selected at
5 random. The intent of this audit is to identify problems with process to be used in the state general
6 election audit. If the secretary of state is unable to resolve problems detected during the audit of the
7 primary election, he or she may elect to forego the general election audit. If the secretary of state
8 decides to forego the general election audit, he or she shall communicate his or her decision to the
9 senate president, the speaker of the house of representatives, the chairperson of the senate election
10 law and municipal affairs committee, and the chairperson of the house election law committee
11 within 10 days from the date of the primary election.

UNAPPROVED

Amendment to SB 366-FN
- Page 2 -

2022-0348s

AMENDED ANALYSIS

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UNAPPROVED

Election Law and Municipal Affairs
February 8, 2022
2022-0563s
10/05

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Amendment to SB 366-FN
- Page 2 -

2022-0563s

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Committee Minutes

SENATE CALENDAR NOTICE
Election Law and Municipal Affairs

Sen James Gray, Chair
Sen Regina Birdsell, Vice Chair
Sen Ruth Ward, Member
Sen Donna Soucy, Member
Sen Rebecca Perkins Kwoka, Member

Date: December 21, 2021

HEARINGS

Wednesday

01/12/2022

Election Law and Municipal Affairs	State House 103	1:00 p.m.
(Name of Committee)	(Place)	(Time)

1:00 p.m.	SB 200	relative to the election of district commissioners in Haverhill.
1:20 p.m.	SB 242	relative to the disqualification of certain persons from performing the duties of an election official.
1:40 p.m.	SB 328	relative to the date of the state primary election.
2:00 p.m.	SB 364	relative to the use of electronic poll books.
2:20 p.m.	SB 366-FN	requiring an audit of ballots cast in the 2022 primary and general election.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 200	Sen. Giuda	Rep. Ladd	Rep. Binford	
SB 242	Sen. Gray	Sen. Ward	Sen. Birdsell	
SB 328	Sen. Gray	Sen. Avard	Sen. Ward	Sen. Sherman
	Rep. Osborne			
SB 364	Sen. Perkins Kwoka	Sen. Watters	Sen. Sherman	Sen. Rosenwald
	Sen. Whitley	Sen. Soucy	Sen. Kahn	Sen. Cavanaugh
	Sen. Prentiss	Rep. Hamblet		
SB 366-FN	Sen. Gray	Sen. Soucy	Sen. Birdsell	Rep. Baroody

Tricia Melillo 271-3077

James P. Gray
Chairman

Senate Election Law and Municipal Affairs Committee
Tricia Melillo 271-3077

SB 366-FN, requiring an audit of ballots cast in the 2022 primary and general election.

Hearing Date: January 12, 2022

Members of the Committee Present: Senators Gray, Ward, Soucy and Perkins Kwoka

Members of the Committee Absent : Senator Birdsell

Bill Analysis: This bill requires an audit of ballots cast in the 2022 state primary and general elections.

Sponsors:

Sen. Gray
Rep. Baroody

Sen. Soucy

Sen. Birdsell

Who supports the bill: Senator Regina Birdsell, Senator Donna Soucy, Representative Diane Pauer, Sue Nastasi, Liz Tentarelli, Phil Hatcher, Jim Verschueren, Julie Smith, Mary Till, Kelly Waitte, Eric Pauer, Marc Gaudette, Alvin See, Secretary of State, David Scanlan

Who opposes the bill: Deborah Sumner, Barbara Glassman, Marcia King, Nancy Salmon, Jennifer Burr

Summary of testimony presented in support:

Senator James Gray

- This legislation is the result of a study committee which met last summer.
- In past elections there have been a growing number of people that would like a post-election audit of the election machines.
- Some would like to return to all hand counting.
- In towns that still retain the voting machines confidence that the machine is reading the ballot correctly is an issue.
- The study committee looked at ways to make the audit as least intrusive as possible and still accomplish the task.
- A machine specific audit is what is needed.
- The AcuVote machine only records the number of votes cast for each candidate.
- This legislation would audit the AcuVote machine with a brand new machine certified by the ballot commission.
- The new machines are capable of scanning hundreds of ballots in a minute and could audit an average community in well less than an hour.
- Two people would be needed, one controlling the ballots and one operating the high speed scanner.
- The vote totals could then be presented and compared with the AcuVote machine totals and any differences noted.
- Another step would be the ability to look at the image of the ballots scanned and compare that image with what the scanner recorded the vote as.
- A certain percentage of ballots would be looked at.
- This would be a done with a random sample.
- In the General election they do not want the machines that will be audited identified ahead of time in order to keep the audit clean.
- They will have to be identified internally ahead of time so that the scanners can be programmed.
- He thinks this is a good compromise between what we can do and what we can't.

- Each place with an AcuVote machine could put in an audit plan and present it to the Ballot Law Commission.
- Senator Ward asked if this would be done in all communities or would it be a random pick.
 - Senator Gray replied that the committee decided it was best to audit just a small number of machines throughout the state. This legislation only addresses one election. If they decide to do it again they will do a larger sample.
- Senator Ward asked how they would decide which machines to audit.
 - Senator Gray replied that it would be a random selection of those communities that use the AcuVote machines.
- Senator Perkins Kwoka asked what the rationale is for needing this bill. She believes that NH runs fair elections and that everything was tabulated correcting in 2020. She also asked if he could explain what the reasoning is for the word procure on line 3 of the bill regarding the machines.
 - Senator Gray replied that the reason he used the word procure is that he did not want to have to force the state to buy the machines. Some companies will allow us to use the machines with the option to buy or lease and he wanted to leave the options open. Being a long time moderator in Rochester he knows that election workers are hard workers and do what they can. People have questions about the numbers the ballot machine is printing and if they are correct. This bill takes a step towards letting the people know that we did something to make sure the machines were correct.
- Senator Perkins Kwoka commented the legislature passed a bill last year to check the Windham situation, which was done. This bill is a promise to check the 2022 ballots. It is her belief that these bills seem to continue the narrative that there is something that we cannot trust about our elections. She believes NH has a great tradition of doing elections well and if this goes forward she hopes that will be the end.
 - Senator Gray replied that the Federal Election Commission did a report on all fifty states and how well they conduct elections. The two things they said about NH was that our machines are not certified by their commission and that we do not have a post-election audit. Many other states have post-election audits. There are people all across the country that are worried about how their ballot is counted. In Vermont they have a robust audit and he believes it is 100 % that they scan. He does not believe this is something that we have to do but he believes in the process and being able to say we checked and the check came back nearly perfect.

Senator Donna Soucy

- She served on the study committee.
- It is clear that there is a misunderstanding about the vote counting machines that we use in NH.
- A lot of people believe they can be hacked but they cannot. They are not hooked up to the internet.
- She believes they run some of the best elections in the country.
- Our process is very open and very balanced.
- The amount of recounts we have is almost like an audit process.
- In the end, even doing this for one cycle will enhance the confidence that voters should have in our well run process.

David Scanlan, Secretary of State

- He agrees with all of the testimony given so far.
- There is a need for an audit moving forward.
- NH voters have lost some confidence in election results.
- The only way to change that is by being transparent and explaining the process.
- Whenever we audit the results it should be done in a way that is understood and people can see the results.

- The main concern he has is being the administer of this process.
- He would be more comfortable if they knew what device would be used to count the machines.
- There is a difference between programing the ballots that they print for the AcuVote machine and the same ballots are programmed to be run through the device that will conduct the audit.
- His office will strive to get it done and that is the goal.
- He would like the committee to recognize that there may be problems that pop up.
- There is other similar legislation being proposed this session and he is not sure how it will affect this legislation.
- In general terms he is supportive of the bill.
- Senator Soucy asked if it would give him greater confidence if the Secretary of State's office had the discretion to decide if the audit is needed for the General Election.
 - Secretary Scanlan replied that it would.

Summary of testimony presented in opposition: None

TJM

Date Hearing Report completed: January 14, 2022

Speakers

Senate Remote Testify

Election Law and Municipal Affairs Committee Testify List for Bill SB366 on 202

Support: 12 Oppose: 5

<u>Name</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>
Gray, James	An Elected Official	Sen. James Gray SD 6	Support
Birdsell, Senator Regina	An Elected Official	Senate District 19	Support
Tentarelli, Liz	A Member of the Public	Myself	Support
Sumner, Deborah	A Member of the Public	Myself	Oppose
Hatcher, Phil	A Member of the Public	Myself	Support
Verschueren, Jim	A Member of the Public	Myself	Support
Smith, Julie	A Member of the Public	Myself	Support
Till, Mary	A Member of the Public	Myself	Support
Glassman, Barbara	A Member of the Public	Myself	Oppose
Waitte, Kelly	A Member of the Public	Myself	Support
Pauer, Eric	A Member of the Public	Myself	Support
Gaudette, Marc	A Member of the Public	Myself	Support
King, Marcia	A Member of the Public	Myself	Oppose
Salmon, Nancy	A Member of the Public	Myself	Oppose
Burr, Jennifer	A Member of the Public	Myself	Oppose
Pauer, Diane	An Elected Official	Myself	Support
Nastasi, Sue	A Member of the Public	Myself	Support

Testimony

Tricia Melillo

From: Mary Till <maryforderry@yahoo.com>
Sent: Tuesday, January 11, 2022 6:50 PM
To: James Gray; Regina Birdsell; Ruth Ward; Donna Soucy; Rebecca Perkins Kwoka; Tricia Melillo
Subject: Written Testimony for SB 366 by Mary L. Till

Dear Committee Members:

SB 366 is proposing a pilot project to test the feasibility of using a high speed scanner to audit election results in New Hampshire. Although having one machine audit another machine still leaves witnesses in the dark about how the votes were counted by either machine. However, such a process is much better than no audit process at all which is what we have to day

It is my understanding that this is a pilot project to inform future legislation for ongoing annual audits of election results. It is a good step and for that reason I support passage of this bill.

However, there are a number of items that this bill fails to adequately address, that must be addressed in a permanent audit process using a high speed scanner.

In Section 4 I it states: *The selection of devices to be audited shall be non-public and made at least 2 weeks prior to the general election, after the AccuVote memory cards have been programed.*

I don't understand why the selection of devices needs to occur so long before the election. In any permanent legislation, to increase voter confidence in the process, the selection must occur after noon on election day. Public observers should be welcomed and encouraged.

Section 4 II further indicates that the Secretary of State shall be the keeper of the information on which devices are selected until noon on election day. The Secretary of State is a public official, and likely trustworthy. However, in the interest of full transparency, there must be witnesses from all interested parties capable of verifying every step of the process.

Section 4 V describes a process to compare randomly selected images of at least 5% of the ballots with the voters' choices recorded for the ballot. As I understand it, neither of these "images" will be compared to the actual paper copy of the ballot. I believe further study must go into this step to assure observers that the devices did not electronically change any votes on the ballot.

So, once again, as a first step pilot project, I support this effort. I reserve judgment on support for future legislation based on the pilot project.

Mary L. Till

Member of Public Representing Myself

Tricia Melillo

From: Barbara Glassman <barbara.glassman@gmail.com>
Sent: Tuesday, January 11, 2022 7:27 PM
To: James Gray; Regina Birdsell; Ruth Ward; Donna Soucy; Rebecca Perkins Kwoka; Tricia Melillo
Subject: In opposition to SB 366-FN re audits

January 11, 2022

To the Honorable Members of the Senate Election Law and Municipal Affairs Committee:

I write in opposition to SB 366-FN and ask Ms. Melillo to please add this to the legislative record.

As I have written to Senator Gray in the past, I am opposed to the lack of transparency and public oversight and increased reliance on hackable, riggable computerized election machinery that using scanners and ballot images for audits embodies.

No true election security expert endorses using a scanner to perform an audit, even if it's a new make or model. Manual/hand-counted post-election audits have been recommended since 2009 by both the Secretary of State's own Electronic Ballot Counting Device Advisory Committee [formerly at <http://sos.nh.gov/ballotcountdev.aspx>] and the national League of Women Voters [<https://sites.google.com/a/leagueofwomenvoters.org/clearinghouse/rep/election-administration/lwvus-report-on-election-auditing>], as well as the experts who testified before the Kobach commission: Andrew Appel, Harri Hursti, and Ron Rivest. [https://youtu.be/XkPJbbKPJ_w]

Verified Voting, the premier body of election experts, is unequivocal: "Audits require human examination of voter-marked paper ballots... Audits cannot rely on scanned images or machine interpretations of the ballots to accurately reflect voter intent" (p. 7, Principles and Best Practices for... Audits). [P. 7, <https://verifiedvoting.org/wp-content/uploads/2020/05/Principles-and-Best-Practices-For-Post-Election-Tabulation-Audits.pdf>]

Let us stop to ask, Why do audits in the first place? It's because election security experts know there are too many undetectable vulnerabilities with computerized voting, and manual audits of hand-marked paper ballots are our best defense. So why are we turning to computerized scanners and digital images when the experts say we should be doing hand-counted audits of the paper ballots?

The convenience of letting a machine do the work of auditing with digital images is very seductive. Proponents will even say you can't trust the people doing hand counts. New Hampshire has a long, proud tradition of meticulous manual recounts. The safeguards built into those recounts can be utilized in audits and even strengthened to allow for maximum transparency and public oversight.

Secretary Gardner chose not to follow the advice of his own hand-picked experts. With his departure, we now have the freedom to reassess.

If that does not happen, then here are concerns about the bill as written:

4."I. The secretary of state shall randomly select one to 3 percent of AccuVote devices, but not less than 4 such devices, to be used at the 2022 state general election to be audited. ... The selection of devices to be audited shall be non-public and made at least 2 weeks prior to the general election, after the AccuVote memory cards have been programed [*sic*]."

The whole point of random audits is to make it impossible for anyone to know ahead of time which machines will be selected. Allowing the secretary of state to choose the machines in advance negates the protective effect of random selection. It is not random selection.

4. "VI. A random sample of not less than 5 percent of the ballots scanned shall be selected and the images of the ballots selected shall be compared with the voters' choices recorded for the ballot."

So this bill allows as little as one percent of the AccuVote machines, but not less than four, to be audited, and then as little as 5 percent of the ballots from those machines to be selected for comparison with "the voters' choices recorded for the ballot." Does this refer to the hand-marked paper ballots? If my husband, an engineer, is not mistaken, that works out to a rate of 0.05 percent of the AccuVote ballots, or 5 in 10,000 paper ballots that will be compared with the corresponding ballot images to try to establish that the ballot images are accurate copies of the hand-marked ballots. Does anyone see that as sufficient to inspire confidence? In contrast, Massachusetts conducts hand-counted audits of the paper ballots in 3 percent of all precincts when the president is on the ballot.

Here's what Professors Andrew Appel and Philip Stark have to say about this:

"Audit the Digital Images?"

"Some vendors are promoting systems that create digital images of ballots. These vendors claim that the images make RLAs easier to perform because fewer (or no) paper ballots need to be inspected. That is incorrect: if a risk-limiting audit relies on images of ballots, it must check that the error in making the images from the voter-verified paper ballots plus the error the system made interpreting those images to make cast-vote records is not large enough to cause the electoral outcome to be wrong. It is a mathematical fact that this requires examining at least as many physical ballots as an audit that compares CVRs to a human reading of the paper ballots, without relying on the digital images." [P. 537, <https://georgetownlawtechreview.org/wp-content/uploads/2020/07/4.2-p523-541-Appel-Stark.pdf>]

In other words, an audit that relies on digital images of ballots requires examining at least as many corresponding paper ballots as a hand-counted audit of the paper ballots alone.

Professor J. Alex Halderman's research demonstrates the vulnerability of auditing digital images:

"Abstract. As paper ballots and post-election audits gain increased adoption in the United States, election technology vendors are offering products that allow jurisdictions to review ballot images—digital scans produced by optical-scan voting machines—in their post-election audit procedures. Jurisdictions including the state of Maryland rely on such image audits as an alternative to inspecting the physical paper ballots. We show that image audits can be reliably defeated by an attacker who can run malicious code on the voting machines or election management system...." [<https://jhalderm.com/pub/papers/unclear-evoteid19.pdf>]

I sincerely hope you will take this opportunity to reenvision the path forward.

Respectfully,
Barbara Glassman
50 Barrington Ave., Unit 504
Nashua, NH 03062-4224
barbara.glassman@gmail.com
603-888-4049
215-378-5356

Voting Sheets

**Senate Election Law
& Municipal Affairs Committee
EXECUTIVE SESSION RECORD
2022 Session**

Bill SB 366

Hearing date: 1/12/22

Executive Session date: 2/7/22

Motion of: OTP Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Gray, Chair	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Birdsell, Vice Chair	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Ward	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	X	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins-Kwoka	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: 0348s *sent to OLS* Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Gray, Chair	X	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Birdsell, Vice Chair	X	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ward	X	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	X	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins-Kwoka	X	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: OTP/A Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Gray, Chair	X	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Birdsell, Vice Chair	X	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ward	X	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	X	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins-Kwoka	X	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Sen. Soucy RB Consent 5-0

Reported out by: Sen. Soucy

Notes: _____

Senate Finance Committee

EXECUTIVE SESSION

Bill # SB 366-FN

Hearing date: N/A

Executive session date: 02/22/22

Motion of: OTP

VOTE: 5-0

<u>Made by</u> Daniels <input type="checkbox"/>	<u>Seconded</u> Daniels <input type="checkbox"/>	<u>Reported</u> Daniels <input checked="" type="checkbox"/>
<u>Senator:</u> Reagan <input type="checkbox"/>	<u>by Senator:</u> Reagan <input type="checkbox"/>	<u>by Senator:</u> Reagan <input type="checkbox"/>
Giuda <input checked="" type="checkbox"/>	Giuda <input type="checkbox"/>	Giuda <input type="checkbox"/>
Rosenwald <input type="checkbox"/>	Rosenwald <input type="checkbox"/>	Rosenwald <input type="checkbox"/>
D'Allesandro <input type="checkbox"/>	D'Allesandro <input type="checkbox"/>	D'Allesandro <input type="checkbox"/>
Morse <input type="checkbox"/>	Morse <input type="checkbox"/>	Morse <input type="checkbox"/>
Hennessey <input type="checkbox"/>	Hennessey <input checked="" type="checkbox"/>	Hennessey <input type="checkbox"/>

Motion of: _____

VOTE: _____

<u>Made by</u> Daniels <input type="checkbox"/>	<u>Seconded</u> Daniels <input type="checkbox"/>	<u>Reported</u> Daniels <input type="checkbox"/>
<u>Senator:</u> Reagan <input type="checkbox"/>	<u>by Senator:</u> Reagan <input type="checkbox"/>	<u>by Senator:</u> Reagan <input type="checkbox"/>
Giuda <input type="checkbox"/>	Giuda <input type="checkbox"/>	Giuda <input type="checkbox"/>
Rosenwald <input type="checkbox"/>	Rosenwald <input type="checkbox"/>	Rosenwald <input type="checkbox"/>
D'Allesandro <input type="checkbox"/>	D'Allesandro <input type="checkbox"/>	D'Allesandro <input type="checkbox"/>
Morse <input type="checkbox"/>	Morse <input type="checkbox"/>	Morse <input type="checkbox"/>
Hennessey <input type="checkbox"/>	Hennessey <input type="checkbox"/>	Hennessey <input type="checkbox"/>

<u>Committee Member</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Reported out by</u>
Senator Daniels, Chairman	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Senator Reagan, Vice-Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Giuda	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Hennessey	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Rosenwald	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Morse	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator D'Allesandro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Amendments: _____

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Monday, February 7, 2022

THE COMMITTEE ON Election Law and Municipal Affairs

to which was referred **SB 366-FN**

AN ACT

requiring an audit of ballots cast in the 2022
primary and general election.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 0563s

Senator Donna Soucy
For the Committee

This bill requires the Secretary of State to conduct an audit of ballots cast in the 2022 state primary and general elections. A random selection of AcuVote machines will be chosen from across the state to be audited by a high speed scanner certified by the ballot commission. This bill was a recommendation and includes the recommendations of the Committee to Study Post Election Audit Counting Devices.

Tricia Melillo 271-3077

Docket of SB366**Bill Title:** requiring an audit of ballots cast in the 2022 primary and general election.**Official Docket of SB366.:**

Date	Body	Description
12/17/2021	S	To Be Introduced 01/05/2022 and Referred to Election Law and Municipal Affairs; SJ 1
12/21/2021	S	Hearing: 01/12/2022, Room 103, SH, 02:20 pm; SC 50
2/9/2022	S	Committee Report: Ought to Pass with Amendment #2022-0563s , 02/16/2022; Vote 5-0; CC; SC 7
2/16/2022	S	Committee Amendment #2022-0563s , AA, VV; 02/16/2022;
2/16/2022	S	Ought to Pass with Amendment 2022-0563s, MA, VV; Refer to Finance Rule 4-5; 02/16/2022; SJ 3
2/22/2022	S	Committee Report: Ought to Pass, 02/24/2022; SC 8A
2/24/2022	S	Ought to Pass: MA, VV; OT3rdg; 02/24/2022; SJ 4
3/23/2022	H	Introduced 03/17/2022 and referred to Election Law
3/30/2022	H	Public Hearing: 04/06/2022 10:45 am LOB 306-308
4/4/2022	H	Executive Session: 04/13/2022 10:00 am LOB 306-308
4/14/2022	H	Committee Report: Ought to Pass with Amendment #202201408h (Vote 20-0; CC) HC 15 P. 7
4/21/2022	H	Amendment # 1408h: AA VV 04/21/2022 HJ 10
4/21/2022	H	Ought to Pass with Amendment 1408h: MA VV 04/21/2022 HJ 10
4/21/2022	H	Referred to Finance 04/21/2022 HJ 10
4/22/2022	H	Division Work Session: 04/26/2022 11:30 am LOB 212
4/22/2022	H	Executive Session: 04/27/2022 03:00 pm LOB 210-211
4/28/2022	H	Majority Committee Report: Ought to Pass (Vote 12-9; RC)
4/28/2022	H	Minority Committee Report: Inexpedient to Legislate
5/4/2022	H	Ought to Pass: MA RC 177-139 05/04/2022 HJ 11
5/12/2022	S	Sen. Gray Moved Nonconcur with the House Amendment; Requests C of C, MA, VV; 05/12/2022; SJ 12
5/12/2022	S	President Appoints: Senators Gray, Birdsell, Soucy; 05/12/2022; SJ 12
5/12/2022	S	Committee of Conference Meeting: 05/16/2022, 11:30 a.m., Room 100, SH
5/12/2022	H	House Accedes to Senate Request for CofC (Rep. B. Griffin): MA VV 05/12/2022 HJ 13
5/12/2022	H	Speaker Appoints: Reps. W. MacDonald, Bergeron, Qualey 05/12/2022 HJ 13
5/19/2022	H	Conference Committee Report #2022-2020c Filed 05/16/2022; House Amendment + New Amendment
5/26/2022	H	Conference Committee Report 2022-2020c: Adopted, VV 05/26/2022 HJ 14
5/26/2022	S	Conference Committee Report #2022-2020c , Adopted, VV; 05/26/2022; SJ 13
6/22/2022	H	Enrolled (in recess of) 05/26/2022 HJ 14
6/22/2022	S	Enrolled Adopted, VV, (In recess 05/26/2022); SJ 13

NH House

NH Senate

General Court of New Hampshire - Bill Status System

Docket of SB366

Docket Abbreviations

Bill Title: requiring an audit of ballots cast in the 2022 primary and general election.**Official Docket of SB366.:**

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2/16/2022	S	Committee Amendment #2022-0563s , AA, VV; 02/16/2022;
2/16/2022	S	Ought to Pass with Amendment 2022-0563s, MA, VV; Refer to Finance Rule 4-5; 02/16/2022; SJ 3
2/22/2022	S	Committee Report: Ought to Pass, 02/24/2022; SC 8A
2/24/2022	S	Ought to Pass: MA, VV; OT3rdg; 02/24/2022; SJ 4
3/23/2022	H	Introduced 03/17/2022 and referred to Election Law
3/30/2022	H	Public Hearing: 04/06/2022 10:45 am LOB 306-308
4/4/2022	H	Executive Session: 04/13/2022 10:00 am LOB 306-308
4/14/2022	H	Committee Report: Ought to Pass with Amendment #202201408h (Vote 20-0; CC) HC 15 P. 7
4/21/2022	H	Amendment # 1408h: AA VV 04/21/2022 HJ 10
4/21/2022	H	Ought to Pass with Amendment 1408h: MA VV 04/21/2022 HJ 10
4/21/2022	H	Referred to Finance 04/21/2022 HJ 10
4/22/2022	H	Division Work Session: 04/26/2022 11:30 am LOB 212
4/22/2022	H	Executive Session: 04/27/2022 03:00 pm LOB 210-211
4/28/2022	H	Majority Committee Report: Ought to Pass (Vote 12-9; RC)
4/28/2022	H	Minority Committee Report: Inexpedient to Legislate
5/4/2022	H	Ought to Pass: MA RC 177-139 05/04/2022 HJ 11
5/12/2022	S	Sen. Gray Moved Nonconcur with the House Amendment; Requests C of C, MA, VV; 05/12/2022; SJ 12
5/12/2022	S	President Appoints: Senators Gray, Birdsell, Soucy; 05/12/2022; SJ 12
5/12/2022	S	Committee of Conference Meeting: 05/16/2022, 11:30 a.m., Room 100, SH
5/12/2022	H	House Accedes to Senate Request for CofC (Rep. B. Griffin): MA VV 05/12/2022 HJ 13
5/12/2022	H	Speaker Appoints: Reps. W. MacDonald, Bergeron, Qualey 05/12/2022 HJ 13
5/19/2022	H	Conference Committee Report #2022-2020c Filed 05/16/2022; House Amendment + New Amendment
5/26/2022	H	Conference Committee Report 2022-2020c: Adopted, VV 05/26/2022 HJ 14
5/26/2022	S	Conference Committee Report #2022-2020c , Adopted, VV; 05/26/2022; SJ 13
6/22/2022	H	Enrolled (in recess of) 05/26/2022 HJ 14
6/22/2022	S	Enrolled Adopted, VV, (In recess 05/26/2022); SJ 13

NH House	NH Senate
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Other Referrals

1 Committee of Conference Report on SB 366-FN, requiring an audit of ballots cast in the 2022
2 primary and general election.

3
4 Recommendation:

5 That the Senate recede from its position of nonconcurrence with the House amendment, and
6 concur with the House amendment, and

7 That the Senate and House adopt the following new amendment to the bill as amended by the
8 House, and pass the bill as so amended:

9
10 Amend the bill by replacing sections 3-5 with the following:

11
12 3 Preliminary Audit; State Primary Election. The secretary of state shall conduct an audit of all
13 AccuVote devices used in at least 2 towns or city wards in the 2022 state primary election. The
14 devices need not be selected at random. The intent of this audit is to identify problems with process
15 to be used in the state general election audit. If the secretary of state is unable to resolve problems
16 detected during the audit of the primary election, he or she may elect to forego the general election
17 audit. If the secretary of state decides to forego the general election audit, he or she shall
18 communicate his or her decision to the senate president, the speaker of the house of representatives,
19 the chairperson of the senate election law and municipal affairs committee, and the chairperson of
20 the house election law committee within 10 days from the date of the primary election.

21 4 State General Election Audit; 2022.

22 I. The secretary of state shall randomly select not less than 4 towns or city wards that used
23 AccuVote devices at the 2022 state general election to be audited. The secretary of state may divide
24 towns or city wards into groups for the selection based on criteria such as the estimated number of
25 election day ballots to be processed. The selection of towns or city wards to be audited shall be non-
26 public and made at least 2 weeks prior to the general election, after the AccuVote memory cards
27 have been programmed.

28 II. The secretary of state shall not announce which towns or city wards have been selected to
29 be audited until at least 12:00 p.m. on election day.

30 III. The audit team shall consist of at least 2 individuals appointed by the secretary of state.
31 One such individual shall have been trained by the secretary of state in the audit process and the
32 use of audit equipment. The other individual, if not trained by the secretary of state in the audit
33 process and the use of audit equipment, shall be an elected election official. The audit team shall
34 scan all of the ballots which were cast and processed by the AccuVote machines in the selected towns

Committee of Conference Report on SB 366-FN
- Page 2 -

35 or city wards. The secretary of state may enlist the support of the technical expert as an audit team
36 member to assist with the technology being used.

37 IV. The audit shall be open to the public but no one except audit team members shall be
38 allowed to touch any ballot or any of the audit equipment.

39 V. Results from the scanning of the ballots shall be announced by the audit team at the
40 conclusion of the town or city ward audit.

41 VI. A random sample of not less than 5 percent of the ballots scanned shall be selected and
42 the images of the ballots selected shall be compared with the voters' choices recorded for the ballot.
43 Any differences identified during the comparison shall be documented.

44 VII. The secretary of state shall make the results of the audits available prior to 12:00 p.m.
45 on the Friday after the election. The secretary shall also report the results to the ballot law
46 commission, and the chairs of the house of representatives and senate standing committees with
47 jurisdiction over election law.

48 5 Effective Date. This act shall take effect upon its passage.

The signatures below attest to the authenticity of this Report on SB 366-FN, requiring an audit of
ballots cast in the 2022 primary and general election.

Conferees on the Part of the Senate

Conferees on the Part of the House

Sen. Gray, Dist. 6

Rep. B. Griffin, Hills. 6

Sen. Birdsell, Dist. 19

Rep. W. MacDonald, Rock. 5

Sen. Soucy, Dist. 18

Rep. Bergeron, Hills. 29

Rep. Qualey, Ches. 11

Senate Inventory Checklist for Archives

Bill Number: SB 3166-FU Senate Committee: EHMA

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: (Legislative Aides)

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

N/A Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: (Legislative Aides)

All amendments considered in committee (including those not adopted):

- amendment # 03485 - amendment # _____

- amendment # 05635 - amendment # _____

Executive Session Sheet

Committee Report

Floor Action Documents: (Clerk's Office)

All floor amendments considered by the body during session (only if they are offered to the senate):

- amendment # _____ - amendment # _____

- amendment # _____ - amendment # _____

Post Floor Action: (if applicable) (Clerk's Office)

Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

Enrolled Bill Amendment(s)

Governor's Veto Message

All available versions of the bill: (Clerk's Office)

as amended by the senate
final version

as amended by the house

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Teresa Merullo
Committee Aide

6/21/22
Date

Senate Clerk's Office

Senate Inventory Checklist for Archives

Bill Number: SB 366-FN

Senate Committee: FINANCE

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Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

Bill version as it came to the committee

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Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

- amendment # _____ - amendment # _____

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Executive Session Sheet

Committee Report

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Governor's Veto Message

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as amended by the senate

as amended by the house

final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Debra A. Mantore
Committee Aide

06/23/22
Date

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